

### REMARKS

Applicant has amended claims 1, 5, 14-15, 19-21, and 28-30 to clarify the relationship between elements. Applicant has cancelled claim 3, and claims 6-13 were cancelled previously. Applicant has also added new claims 32-41. Basis for the amendments and new claims can be found throughout the specification, drawings, and originally filed claims, specifically page 6, lines 22 to 25 and Figure 5. The pending claims are 1-2, 4-5, and 14-41.

Claim 1 has been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner objects to the recitation of “the device configured for placement between the crystal growth solution and the reservoir solution.” In an effort to expedite prosecution of this case but in no way conceding to the validity of the rejection, Applicant has amended claim 1 to replace this language with “the first end of the device configured for placement in a well of a plate containing the reservoir solution.” This language is clearly supported by Figs. 3-5 and the corresponding discussion in paragraphs 0055-0057. Accordingly, Applicant respectfully requests withdrawal of the rejection.

Claim 19 has been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner objects to the recitation of “a device configured for engaging the container” because, according to the Examiner, there is no explicit teaching in the specification for this feature. Applicants respectfully traverse this rejection. Applicants respectfully submit that Figs. 3-5 show a device engaging a container. The corresponding discussion in paragraphs 0055-0057 teaches that the “device is made to fit into a container” optionally with an o-ring that “allows for a better seal between the device and the sides of the container.” The discussion also teaches that the device is “made to fit a well of a 24-well plate” and that “device 10 is set down into the well of the container.” Claim 19 has been amended to clarify that the device has a first end configured for placement within the container. Such a device is shown in Fig. 5. Clearly, the specification supports a device that is configured for engaging the container by having a first end configured for placement within the container. Applicant respectfully requests withdrawal of this rejection.

Claims 1-5, 14-23, and 27-31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Heilig et al. (U.S. Patent No. 5,266,284). Claim 3 has been cancelled.

Applicant respectfully traverses and requests reconsideration with respect to claims 1-2, 4-5, 14-23, and 27-31.

Applicant respectfully submits that the Heilig reference does not describe each and every element of the claimed invention. Claims 1-2, 4-5, and 29-30 have been amended to specify that the first end of the device having a discrete diffusion pathway is configured for placement in the well of a plate, and claims 19-28 and 31 similarly require a device having a discrete diffusion pathway that is configured for engaging a container for holding a reservoir solution, with a first end configured for placement in the container. Heilig does not disclose or suggest a device having a discrete diffusion pathway that has a first end configured for placement into a well of a plate or into a container. Nothing in Heilig is shown to be placed into reservoirs 130, 132.

Claims 14-18 are directed to a device in which there is a reservoir unit, a channel unit, and a selection unit, with both the channel unit and selection unit rotatable to give the desired alignment between the reservoir chamber and the crystal growth solution.

In a prior response, the applicant noted that the Examiner seems to be confusing the recesses of the device of the Heilig reference as reading on both the channel unit and the selection unit. The presently claimed channel unit provides discrete channel configured to control the rate of vapor diffusion between a reservoir solution and a crystal growth solution. The selection unit, in contrast, has an opening that controls channel and/or reservoir alignment, without controlling the rate of diffusion. As such, recess 96 of the Heilig device cannot read upon both the channel unit and the selection unit of the present invention. In the present Office Action, the Examiner explains that the recess 96 is part of the channel unit, and the rotating part 112 with openings reads on the selection unit. However, the openings in 112 are the openings of the reservoirs 130, 132 themselves. Thus, the Examiner is defining the openings of the reservoirs 130, 132 as the openings of the selection unit. Since the reservoirs are formed within the selection unit, the reservoir unit and the selection unit are part of the same component and are permanently aligned, and the selection unit and the channel unit do not rotate individually to align the reservoir chamber, the discrete channel, and the opening as required by claim 14. Further, in Heilig, whether diffusion is controlled or not controlled is due to the amount the reservoirs are situated over the recesses 96 and each of the recesses 96 have the same geometry. In an effort to advance prosecution, claim 14 has been amended to specify that the channel unit comprises a plurality of discrete channels configured to control the rate of vapor diffusion between the reservoir chamber and the crystal growth solution, each of the channels having a geometry different from each other

channel to provide a different diffusion rate. Heilig does not teach a selection unit having a plurality of channels, each having a geometry different from each other channel to provide a different diffusion rate.

Applicant thus submits that the Heilig reference does not describe each and every element of the claimed invention and therefore withdrawal of the rejection is respectfully requested.

Claims 24-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Heilig (U.S. Patent No. 5,266,284) in view of Kim (U.S. Patent No. 6,039,804).

Claims 24-26 all depend from claim 19. As discussed above, claim 19 has been amended to require a device configured for engaging a container with a first end configured for placement in the container. Heilig does not disclose or suggest a device having a discrete diffusion pathway that has a first end configured for placement into a well of a container for holding a reservoir solution. In Kim, a crystallization tray is provided with reservoir chambers and diffusion pathways as part of one integral device. The diffusion pathways 30 are at the top of the reservoir chamber, and are not configured for placement within the reservoir chamber. Thus, the combination of Heilig and Kim does not render obvious the invention of claims 24-26. Withdrawal of this rejection is respectfully requested.

#### CONCLUSION

The claims now stand ready for allowance and such allowance is courteously solicited. Should the Examiner have any questions or wish to discuss this matter further, the Examiner is invited to call the attorney below at (317) 231-7504.

Respectfully submitted



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